

**ASSEMBLY BILL**

**No. 1377**

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**Introduced by Assembly Member Thurmond**

February 27, 2015

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An act to amend Section 41781.3 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1377, as introduced, Thurmond. Solid waste: recycling: diversion: green material.

The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program. Existing law requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan. The act requires the source reduction and recycling element to divert from disposal 50% of all solid waste subject to the element through source reduction, recycling, and composting activities, with specified exceptions. Existing law governs the use of solid waste as alternative daily cover in the construction and operation of a solid waste landfill, including the determination of what constitutes diversion through recycling rather than disposal. Existing law provides for the department to adopt regulations in this regard.

This bill would delete obsolete provisions relating to the adoption of regulations.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 41781.3 of the Public Resources Code is amended to read:

41781.3. (a) (1) Except as provided in paragraph (2), the use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover, which reduces or eliminates the amount of solid waste being disposed pursuant to Section 40124, shall constitute diversion through recycling and shall not be considered disposal for purposes of this division.

(2) (A) Commencing January 1, 2020, the use of green material as alternative daily cover does not constitute diversion through recycling and shall be considered disposal for purposes of this division.

(B) Commencing January 1, 2020, a local jurisdiction that, as a result of not being able to claim diversion for the use of green material as alternative daily cover, does not meet the requirements of Section 41780 shall, in the next annual report required pursuant to Section 41821, identify and address barriers to recycling green material and, if sufficient capacity at facilities that recycle green material is not expected to be operational before the jurisdiction's next review pursuant to Section 41825, include a plan to address those barriers that are within the control of the local jurisdiction.

(C) Commencing January 1, 2020, green material used as alternative daily cover at a solid waste landfill is not subject to the fee imposed on disposed solid waste pursuant to Section 48000.

(3) Commencing August 1, 2018, a local jurisdiction shall include in the electronic annual report required pursuant to Section 41821 information on how the local jurisdiction intends to address the requirements of subparagraph (A) of paragraph (2) and divert green material that is being used as alternative daily cover.

(b) ~~Before December 31, 1997, pursuant~~ Pursuant to the department's authority to adopt rules and regulations pursuant to Section 40502, the department shall, by regulation, establish conditions for the use of alternative daily cover that are consistent with this division. In adopting the regulations, the department shall consider, but is not limited to consideration of, all of the following criteria:

1 (1) Those conditions established in past policies adopted by the  
2 department affecting the use of alternative daily cover.

3 (2) Those conditions necessary to provide for the continued  
4 economic development, economic viability, and employment  
5 opportunities provided by the composting industry in the state.

6 (3) Those performance standards and limitations on maximum  
7 functional thickness necessary to ensure protection of public health  
8 and safety consistent with state minimum standards.

9 ~~(e) Until the adoption of additional regulations, the use of~~  
10 ~~alternative daily cover shall be governed by the conditions~~  
11 ~~established by the department in its existing regulations set forth~~  
12 ~~in paragraph (3) of subdivision (b) of, and paragraph (3) of~~  
13 ~~subdivision (c) of, Section 18813 of Title 14 of the California Code~~  
14 ~~of Regulations, as those sections read on January 1, 1997, and by~~  
15 ~~the conditions established in the department's policy adopted on~~  
16 ~~January 25, 1995.~~

17 ~~(d)~~

18 (c) In adopting rules and regulations pursuant to this division,  
19 including, but not limited to, Part 2 (commencing with Section  
20 40900), the department shall provide guidance to local enforcement  
21 agencies on any conditions and restrictions on the utilization of  
22 alternative daily cover so as to ensure proper enforcement of those  
23 rules and regulations.

24 ~~(e)~~

25 (d) Nothing in this section modifies, limits, or abrogates the  
26 authority of a local jurisdiction with respect to land use, zoning,  
27 or facility siting decisions within that local jurisdiction.

28 ~~(f)~~

29 (e) For purposes of this section, "green material" has the same  
30 meaning as "processed green material," as defined in subdivision  
31 (b) of Section 20690 of Title 27 of the California Code of  
32 Regulations. The term does not include materials left over from  
33 the composting process, materials left over after the material  
34 recovery process, commonly referred to as "fines," or processed  
35 construction and demolition waste materials.

36 ~~(g)~~

37 (f) For purposes of this section, "processed construction and  
38 demolition waste material" has the same meaning as defined in

- 1 subdivision (b) of Section 20690 of Title 27 of the California Code
- 2 of Regulations.

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